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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 August 2001, at 6 p.m.

Chairman: Mr. WEISSBRODT

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The meeting was called to order at 6 p.m.

ORGANIZATION OF WORK (agenda item 1) (continued)

Preparatory Meeting for the Social Forum (continued) (E/CN.4/Sub.2/2001/CRP.2 and 4)

1. Mr. OYARCE (Chile) said that the reason the Social Forum was so important to the Sub-Commission was that it would provide an opportunity for reflection on the spread of globalization and its impact on social and human rights. It would complement the debate on other aspects of globalization that was taking place in other bodies such as the International Labour Organization (ILO) Working Party on the Social Dimension of Globalization. It would be in a unique position to extend the work of non-State actors in economic, social and cultural rights, providing access to the debate for those who otherwise would not have such access. People were apprehensive and their concerns needed to be addressed.

2. The Social Forum would also make a more objective contribution to the discussion on economic, social and cultural rights by looking at legal issues and specific areas such as greater integration between financial and political systems. The idea of deciding on two subjects for discussion at the first session was very important.

3. The challenge to the Sub-Commission was to work with civil society and Governments to promote the initiative, which needed to be practical and operational, but required political and legal support.

4. Mr. KARTASHKIN said that one of the questions that ought to be discussed at the forthcoming Social Forum was the relationship between politics and economics, in broad terms, and, more specifically, the relationship between political rights and economic and social rights. Political instability and the lack of democratic institutions were detrimental to economic and social rights, while political stability in a society subject to the rule of law brought economic stability and the implementation of all kinds of economic and social rights, such as the right to land, which had been one of the questions raised in the panel discussion at the preceding meeting. In the Soviet Union, for example, there had been no way of dealing with the land issue for 70 years and it was only now being dealt with by democratic means.

5. As to the question of who should participate in the Social Forum, he believed the criterion should not be previous participation or non-participation, but, rather, expert knowledge of the issues. Participants should therefore include not only members of the Sub-Commission, but also members of relevant international governmental and non-governmental organizations.

6. The Social Forum would differ from previous forums in that it would undertake a complex, comprehensive investigation of all issues relating to social and economic rights and integrate the work of other organizations such as the ILO, the World Bank and the World Trade Organization (WTO). That was the only way to find answers to the expectations of the world community.

7. Mr. RODRIGUEZ CUADROS said that the Social Forum would not only make institutions and agencies more effective in promoting economic, social and cultural rights, but

would also help them with the planning that was necessary if those rights were to be properly monitored. However, in order to complement other forums that debated poverty, unequal distribution of income and the inequities arising from globalization, it must develop a framework of its own. That framework would be provided by a human rights approach, by which he meant a legal approach to the issues, emphasizing the concepts of obligation and responsibility, as opposed to a political approach far removed from the decision-making process. If the Social Forum was to bridge the gap between discussion and implementation, it had to discuss how to monitor States' policies and determine whether or not States were indeed meeting their obligations to implement economic, social and cultural rights. It must set a certain minimum standard or line below which States could not fall. An important question that arose in that context was the ability of States to negotiate with the financial institutions. For example, if a State's infant mortality rate was 22 per thousand and it was involved in negotiations with the International Monetary Fund (IMF) over reductions to the health budget that would entail cutting preventive programmes, it was necessary to determine what impact the policies agreed would have on infant mortality rates. Budgetary targets could be set and it would then be possible to establish policies that would help reduce infant mortality rates. Indicators of that kind would make it possible to set minimum standards for the realization of economic, social and cultural rights. Such working methods would provide a real line of defence for economic, social and cultural rights.

8. Mr. PARY (Indian Movement Tupaj Amaru) said that, since the panellists had left, there was little point in him making his statement. However, he wished to state for the record that the debate on the Social Forum had not been at all democratic. For example, no victims had been called upon to speak. As one of the victims of globalization and structural readjustment himself, he had brought testimony from the indigenous populations. A debate among experts from the World Bank and IMF excluded such people and even the Governments of the South.

9. The CHAIRPERSON encouraged the preceding speaker to submit his information to the Special Rapporteur so that he could take it into account in discussions on the next step in the preparations for the Social Forum. The Sub-Commission wanted to take account of all opinions.

10. Mr. CHAPMAN (Minority Rights Group) said the debate had reflected a desire to involve civil society in the workings of the Social Forum. He hoped that decisions on the working methods of the Social Forum would be taken in as transparent a manner as possible, with the continuing participation of civil society.

11. It had been said that the Social Forum should examine aspects of the impact of development and globalization on vulnerable groups and their enjoyment of economic, social and cultural rights. He urged the broadest possible participation of representatives of minority and indigenous NGOs in the Forum, by which he meant grass-roots NGOs rather than international organizations such as his own, since local NGOs generally had far less access to international forums.

12. A number of different models should be considered for the participation of civil society. The Working Groups on Minorities and on Indigenous Populations already offered such models, while the World Conferences offered a model of accreditation that allowed easier access than the Economic and Social Council accreditation process.

13. He wondered how themes would be dealt with: would there be different special themes from year to year or a number of core themes that would be considered every year? Whatever the system chosen, one of the themes should be the relationship between minority and indigenous groups and the enjoyment of economic, social and cultural rights, globalization and development.

14. Mr. NARVAEZ (World Federation of Trade Unions) said that workers, as the creators of wealth in every part of the world, and indigenous peoples, as ancestral owners of the world, must be directly invited to participate in the Social Forum.

15. Ms. PROUVEZ (International Commission of Jurists) said she agreed that it was vital for the Social Forum to include representatives of those segments of society that were usually not consulted or represented in international forums. She agreed with the suggestion by the representative of Oxfam at the preceding meeting that similar forums, which would be accessible to those who did not usually have such access, could be organized on other occasions in other parts of the world.

16. There were a number of themes the Social Forum should consider: the often negative effects of privatization policies and deregulation on economic, social and cultural rights in the former Soviet Union and eastern and central Europe; the effects of financial crises on the enjoyment of economic, social and cultural rights; the practical difficulties in implementing international standards of economic, social and cultural rights; and the need for new instruments and mechanisms, including the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

17. The Social Forum should also provide an opportunity for the exchange of examples of best practice and of lessons to be learned with regard to anti-poverty programmes and national policies to promote and protect economic, social and cultural rights in difficult situations.

18. Ms. BIONDI (International Confederation of Free Trade Unions), referring to section II, paragraph 8, of document E/CN.4/Sub.2/2001/CRP.2 said that the idea of following up agreements on social matters was a very interesting one. Recalling article 8 of the International Covenant on Economic, Social and Cultural Rights, she said that it was also important to include labour rights and trade unions in the debate. Reference should be made to the ILO Declaration on Fundamental Principles and Rights at Work, which obliged States to observe core labour standards even if they had not ratified the relevant conventions, simply by virtue of their membership of the ILO. As Mr. Ricupero, the UNCTAD Secretary-General, had said at the preceding meeting, certain topics would need thorough discussion, such as debt cancellation, WTO and development financing.

19. Mr. SANCHEZ (American Association of Jurists) said that there was not a great deal of social representation in the Social Forum. Judging by the number of United Nations bodies that would be participating, including the Sub-Commission, it would have time to take up only one item per session if there was to be any responsible discussion. AAJ suggested it should deal with external indebtedness at its first session, in 2002

20. Mr. PRAKASH (Indian Council of Education) said that it was important to take a balanced view of globalization. The private capital circulating in the world economy had created new opportunities and had destroyed old ones, thereby giving rise to both employment and unemployment in both the developing and the developed world. No institutional finance had been available to overcome the ill-effects of unemployment or to address the social security needs arising alongside the globalization processes. The Social Forum must therefore make efforts to persuade the international financial institutions to open special windows for Governments and industry. Increased mobility and flexibility for capital, which opened new vistas of industry and entrepreneurship, had to be matched by increased finance for labour, educational reform and economic security. Third World Governments, which had grown bloated within their protectionist economies, would also need help from international finance in their efforts at downsizing. In short, a holistic, multifaceted approach was needed rather than a one-sided approach from either industry or labour.

21. Ms. HAMPSON, referring to Mr. Rodriguez Cuadros' suggestion on standard-setting, said the Committee on Economic, Social and Cultural Rights had done considerable work in that regard. That Committee was basically concerned with reviewing State parties' reports in the light of the standards it had set, inter alia, in its general comments. The reason States failed to attain those standards, or indeed regressed, was sometimes that they encountered problems with other States. For example, development aid might be reduced on account of features of their system of government, even though change might not be appropriate at their current stage of development. Or they might be having problems in their relations with international financial institutions or with major corporations, although usually States in the developing world seemed to get on well with such corporations. In such cases, one possible function of the Social Forum, if the State party so wished, could be to use its good offices to seek a solution. It was not a matter of dispute settlement, but, rather, of facilitating discussion of a State's problem.

22. The CHAIRPERSON said that that concluded the special debate under agenda item 1.

OTHER HUMAN RIGHTS ISSUES (agenda item 6)

(c) OTHER ISSUES: PROMOTION AND CONSOLIDATION OF DEMOCRACY (E/CN.4/Sub.2/2001/32)

23. Mr. RODRIGUEZ CUADROS, introducing a working paper (E/CN.4/Sub.2/2001/32) prepared in accordance with Sub-Commission decision 2001/116 on the measures provided in the various international human rights instruments for the promotion and consolidation of democracy, said that, rather than discuss the definition of democracy or the history of the concept of democracy he had decided to base his approach on the analysis of trends in the promotion and consolidation of democracy through human rights in universal and regional instruments. An approach of that kind, which looked at binding legal and political obligations, would make it possible to see what elements were required to develop a legal regime to defend, promote and consolidate human rights.

24. The first part of the document dealt briefly with concepts that had already been established at the Vienna World Conference on Human Rights regarding the interrelationship between democracy and human rights. All human rights could be realized, promoted or violated

in any given State. The political and legal structure of the State could therefore either guarantee and promote the realization of human rights or, if in any way defective, violate or impair human rights. In other words, the political and legal structure of the State was a factor in the realization or violation of human rights. The paper made it clear that the concepts of the rule of law and of legal safeguards as the guarantee of human rights were enshrined in the Universal Declaration of Human Rights.

25. The paper went on to discuss the relationship between human rights and democracy as expressed in the relationship between the individual and society, and briefly reviewed developments in ways of promoting, defending and consolidating democracy in the past 20 years.

26. The paper also reviewed United Nations practice in promoting democracy at different times: first in the decolonization period leading up to the establishment of independent democratic societies, and then during the 1970s and later, as the United Nations had moved on from a tendency to deal with democracy almost solely from the standpoint of the right to self-determination towards much more specific undertakings and commitments, particularly with regard to electoral democracy and functional democracy, especially in the new or restored democracies.

27. Developments of the highest importance had taken place at the regional level. In the inter-American system, for example, democracy was a prerequisite for membership of the Organization of American States (OAS) and for participating in cooperation and integration activities in Latin America and the Caribbean. In recent years "democracy clauses" had been introduced, obliging countries to maintain their political regime within the rule of law, on pain of suspension of their rights within the regional community.

28. Recent developments in Africa included the creation of the African Union, which would eventually replace the Organization of African Unity (OAU). It promised to make a key contribution to democracy, democratic institutions and the rule of law within the African continent. Its Constitutive Act included a democracy clause, according to which Governments that came to power through unconstitutional means would not be allowed to take part in the activities of the Union.

29. There was thus a growing awareness of the existence of a right to democracy and an emerging international regime in which human rights and democracy intertwined, enabling legal provisions and standards to promote the establishment of mechanisms to preserve democracy. The resulting legal fabric provided a holistic framework within which to deal with economic, social and cultural rights more specifically. Democracy and the rule of law not only protected and guaranteed human rights, they also made it possible gradually to imbue the population with those values and principles.

30. The paper dealt with situations that were not subject to geographical limitations and could arise in any society, depending on the quality of its democratic institutions, and might therefore affect fundamental freedoms and human rights. Corruption in particular, if it became widespread, greatly affected the enjoyment of human rights, eroding the independence of the judiciary and the democratic principles of the population.

31. A number of tentative preliminary conclusions were contained in the working paper, of which the Sub-Commission might wish to discuss a final version at its next session.

PREVENTION OF DISCRIMINATION

(a) RACISM, RACIAL DISCRIMINATION AND XENOPHOBIA;

(b) PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES;

(c) PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES.

(agenda item 5) (continued) (E/CN.4/Sub.2/2001/2, 16, 17 and 21; E/CN.4/Sub.2/2001/AC.4/6);

32. Mr. PREWARE congratulated Mrs. Daes on her work on indigenous peoples and minorities over the years. He, like many others, hoped that she would continue with that work.

33. As her report (E/CN.4/Sub.2/2001/21) stated, land was central to the very existence of indigenous peoples and was therefore very often at the heart of the problems faced by such peoples. Friction generally arose from differences in the value systems of indigenous peoples and nation States. As paragraph 22 of the report showed, the clash of cultures had been devastating. The report rightly addressed the issues from the standpoint of the human rights principles embodied in the Universal Declaration of Human Rights, the International Covenants and other international conventions.

34. The earliest efforts to protect the rights of indigenous peoples had been based on what Mrs. Daes termed "naturalist" theories. The international law that had developed from those theories was, however, fundamentally Eurocentric and restricted rather than strengthened indigenous peoples' rights to land and resources. Was there then any hope that they could obtain fairness and justice? The report suggested that the answer must be yes. Despite a number of reverses in the decisions of some national courts, which demonstrated the influence that Eurocentrist and discriminatory ideas continued to exert, Governments had begun to enact legislation and establish mechanisms to address the issues of land rights, inequality before the law, poverty and the participation and development of indigenous peoples.

35. The guiding principles and recommendations outlined in paragraphs 144 to 164 of the report all hinged on respect for fundamental human rights, dialogue and negotiation mechanisms, as well as monitoring capacity. The suggestion for the appointment of a special rapporteur with peace-seeking powers, in particular, was a bold one that the Sub-Commission should examine in greater detail.

36. Mr. JANSASOY (Foodfirst Information Action Network) said the indigenous peoples of Colombia were in a very dangerous situation because of violations of their basic political, social and even spiritual rights. With civil war having been declared on them in the last two years by the paramilitary and guerrilla armies, indigenous peoples were victims in their own areas. The introduction of Plan Colombia had taken human rights violations to new levels. The spraying of

traditional crops had led to the displacement of more than 2,800 people, threatened indigenous peoples' health and undermined their control over their territory and was also a threat to their spiritual life. He therefore requested the international community to call for an end to the forcible destruction policy. The United States Congress should send the Department of State to see what impact the policy was having on the environment. With the amount of money that was being spent, it must be possible to institute proper consultation mechanisms and protective measures, particularly for the Amazon Indians. The right to a healthy environment and due process of law for indigenous populations must be upheld.

37. Mr. KOK KSOR (Transnational Radical Party) said that his people, indigenous Montagnards from the central highlands of Viet Nam, had been subjected to 26 years of religious persecution, human rights violations and confiscation of ancestral lands, in revenge for their support for the United States army during the Viet Nam war. The Government had forcibly relocated villages to inferior land to make way for coffee plantations, logging operations and transmigration policies. People had been imprisoned, tortured and even executed for practising Christianity. The children suffered from malnutrition and women had been forcibly sterilized. Independent human rights organizations had documented the violations and the United States Government had called for independent monitors to be granted access to the region.

38. In February 2001, thousands of Montagnards had demonstrated peacefully to demand respect for their human rights. The Government had responded with a military crackdown using thousands of armed troops, tanks and helicopter gunships. Hundreds of his people had been arrested, tortured and executed, churches had been burnt down and villages occupied. Human rights organizations had confirmed that Viet Nam had offered bounties to the Cambodian authorities for the capture of those who had fled and many had been forcibly returned to Viet Nam to face imprisonment and torture. The fate of hundreds of refugees in Cambodia remained in doubt as Viet Nam had rejected United Nations proposals for their safe return.

39. He asked the Sub-Commission and the international community to take emergency action to intervene, to safeguard the refugees in Cambodia and to make the Vietnamese Government comply with human rights law.

40. Ms. SPALDING (World Federation for Mental Health) said that indigenous peoples around the world implored the Sub-Commission to ensure that the Working Group on Indigenous Populations continued its crucial work. The new Permanent Forum on Indigenous Issues had a different mandate. Mrs. Daes' report clearly demonstrated the vitality and uniqueness of the Working Group; if it was phased out, indigenous peoples would be deprived of an essential forum for the serious study of issues that could then be submitted to the Sub-Commission. Youth from around the world attending the Youth Empowerment Summit (YES) in Geneva, who had taken part in the initial Indigenous Peoples Pre-Caucus and later as NGO observers in the Working Group, had called for the continuation of the Working Group. She hoped their call would be heard by those responsible for making such an important decision, which might shape the future of the world.

41. Ms. SANCHEZ (Public Services International) said that PSI continued to promote equal opportunity in the workplace and to oppose all forms of discrimination. Indigenous peoples had proved to be an important part of trade union struggle in pursuit of that aim and public service

trade unions, in particular, as providers of services to indigenous peoples, should play a more responsible role in the promotion of their rights. PSI therefore urged its affiliates in countries and regions to develop and implement action plans to establish and maintain relationships between indigenous peoples and trade unions and particularly to promote the employment of indigenous peoples. They should work to encourage Governments to ratify ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

42. No workers should face discrimination because they were different from the dominant group and PSI was committed to eliminating such exclusion. PSI affiliates actively supported indigenous peoples by negotiating equity in workplaces where there was discrimination: some had negotiated expansion of leave to accommodate the traditions of aboriginal workers or leave of absence without pay for traditional economic activities, while others had won contract language providing aboriginals with preference in promotions, transfers and training, to ensure equitable representation and distribution in the workforce.

43. Mr. LEBLANC (Franciscans International) welcomed the creation of the Permanent Forum on Indigenous Issues and the appointment of a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. He commended Mrs. Daes' reports and paid tribute to her work as Chairperson of the Working Group on Indigenous Populations, which had helped create greater understanding of indigenous issues within the United Nations system.

44. Referring to the discussion of relocation in the working paper on indigenous peoples and their relationship to land (E/CN.4/Sub.2/2001/21, paras. 70-72), he said that members of his organization working in the field had seen many specific examples of displacement of vulnerable groups and encroachment on their land in the name of development. The tribal people in the State of Jarkhand in India, for example, had for 30 years been mounting non-violent resistance to the Koel-Karo dam mega-project, which threatened to submerge villages and displace more than 100,000 persons, 70 per cent of them tribal peoples. In Bangladesh, there were protests at plans for an "Ecopark" to be built in forest land traditionally inhabited by indigenous tribal peoples. He also continued to be concerned about the situation of indigenous peoples in Mexico, who faced systemic human rights problems, the recent political developments in the country notwithstanding. One of their long-standing demands was for the right to ensure that programmes were not incompatible with their culture in terms of the use of natural resources and to designate their authorities in the traditional manner. Their situation illustrated the ongoing challenges facing Governments and society in achieving equity and justice for all.

45. Member States of the United Nations should take the Special Rapporteur's recommendations on urgent and effective action seriously if the violations of today were not to escalate into the conflict of tomorrow.

46. Ms. HASEGAWA (Shimin Gaiko Centre) said that, on 2 July 2001, two influential members of the Japanese parliament had stated, in separate venues, that Japan was an ethnically homogeneous nation. One of those statements had been particularly offensive to Japan's indigenous people because it had been made by a former director of the Japanese Government's Hokkaido-Okinawa Development Agency, who was certainly aware of the existence of the Uchinanchu and Ainu as distinct peoples. Japan's lack of domestic laws on racial or ethnic

discrimination allowed government officials to make such statements with impunity. It was time for the international community to establish mechanisms that would ensure the enforcement of the provisions of international law. For indigenous peoples in Japan and throughout Asia and Africa, the struggle for indigenous rights included the demand that Governments should recognize the identity of indigenous peoples. She called on the Japanese Government to acknowledge that the statements had been not only untrue, but also discriminatory and ethnocentric.

47. Mr. PARY (Indian Movement Tupaj Amaru) said that central to the debate at the World Conference against Racism would be the acknowledgement of colonialism as the main cause of racism and the issue of compensation for its victims. It was essential to examine the forms of social organization that had marginalized aboriginal populations, thereby destroying ancient wisdom and culture and wiping historic communities off the face of the earth, to the great sorrow of those who had lost the memory of their ancestors. Those that had survived such genocides had been condemned to slavery and forced labour to the end of their days. The most inhuman form of slavery had been that which had made of the Indians mere chattels to be bought and sold, traded by land and sea. Incalculable amounts of gold and silver had been extracted and sent back to the Spanish crown, enormous wealth sucked from the lungs of the Americas, leaving behind an economy of lack. The former metropolitan States and the new colonial powers should assume their historic political and moral responsibility, examine their consciences and their ethnocentric policies with their expansionist colonial connotations and apologize to the millions of victims.

48. Ms. Song HESUK (Indian Movement Tupaj Amaru) said that more than 230 members of the Korean minority in Kyoto prefecture in Japan, who had originally been evicted from their homes in Korea to work as forced labour in munitions factories and mines during the colonial period, had settled in Japan and were now about to be evicted from their homes again. The concept of reparation and compensation for victims of the colonial system took on an urgent relevance in that situation. She strongly requested the Sub-Commission to take all necessary measures to protect and promote the human rights of the victims of colonialism, including Korean minorities in Japan.

49. Ms. DI POGGIO (International League for the Rights and the Liberation of Peoples) said that Mrs. Daes' report (E/CN.4/Sub.2/2001/21) drew attention to the many failures of States in their policies towards indigenous peoples. Those failures were reminders of rights violated, rights spelt out in the draft declaration on the rights of indigenous people. Were the draft declaration at long last to be adopted, there would be no more failures and justice would be done.

50. Though indigenous peoples constituted only around 5 per cent of the world population, they represented roughly 90 per cent of the world's cultural diversity and 80 per cent of the world's biodiversity was to be found in indigenous peoples' territories. Nevertheless, for the sake of short-term financial gain, business and industry pressed Governments to oppose, weaken or disregard legal frameworks and international standards aimed at protecting and enhancing indigenous peoples' rights, particularly the right to land. Their spiritual, cultural and social values and close relationship with the natural world were thus traded for the benefit of the richer regions of the world and at the expense of the global environment.

51. The recent approval of the United States National Energy Security Act, which would allow petroleum exploration in the Arctic national wildlife refuge in Alaska, amounted to a death sentence for the Gwich'in nation. The coastal plain that the Gwich'in called "the sacred place where life begins" was the biological heart of Arctic wildlife and the calving grounds of the Porcupine caribou herd, on which the Gwich'in depended to meet their physical and spiritual needs. It constituted a legacy of paramount importance for future generations that would be lost forever if the natural food chain was disrupted by the oil operations.

52. In Chiapas, indigenous peoples were still waiting for President Fox to offer them a meaningful solution to a dispute that centred, yet again, on the rightful use and ownership by indigenous peoples of their forests and natural resources, which had been pilfered and exploited by multinationals for their experiments on genetically modified organisms. Since DuPont's application for a patent on a genetically modified corn maize very similar to a Mexican variety, for example, peasants could no longer use some local seeds. In the United States, the Western Shoshone people were still denied the rightful possession and enjoyment of their ancestral lands, in accordance with their traditional lifestyle, despite a treaty of peace and friendship with the Government. Goldmining continued to destroy their land and pollute their water and no ban had yet been placed on nuclear waste dumping or missile testing.

53. No right was more important for indigenous peoples than the right to self-determination, as expressed in article 3 of the draft declaration. However, the very notion of self-determination needed updating, since it was still being interpreted as restrictively as it had been during the decolonization period. She called for the question to be placed on the Sub-Commission's agenda.

54. Mr. IBARRA (International Indian Treaty Council) said there was an enormous gap between the undeniable progress made in the legal and philosophical debate over the rights of indigenous peoples around the world and the stagnation or regression in the exercise of human rights and fundamental freedoms. Moreover, racism was enjoying a renaissance, sometimes surfacing in the guise of democracy, development or progress, sometimes camouflaged among percentages, statistics and fallacious reports.

55. There was cause for grave concern in Mexico, where the timid hopes for improvement following the elections had been dashed by continuing systematic violations of the human rights and fundamental freedoms of indigenous peoples, political persecution and the military use of indigenous lands. Recent legislation and government action had restricted basic rights enshrined in the international instruments to which Mexico was a party. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people should therefore concentrate first on the situation of indigenous peoples in Mexico.

56. More than 10 years since the end of the military dictatorship, Chile was one of the most backward countries in terms of indigenous peoples' rights and its Constitution still did not recognize their legal, physical or cultural existence. It had not ratified ILO Convention No 169, despite the pledges made in every presidential campaign. There had been no changes in favour of the indigenous peoples in economic, forestry, mining, water or agricultural policies since the dictatorship. There were no policies or legislation to promote multi-ethnicity, indigenous artistic creation or spiritual life or indigenous peoples' effective enjoyment of human rights and

fundamental freedoms; there were no programmes to combat discrimination and no government will to accept and implement any of the recommendations or suggestions made by the Committee on the Elimination of Racial Discrimination or the Human Rights Committee. Unemployment, malnutrition and infant mortality were higher in municipalities with large indigenous populations than anywhere else in the country. If the Sub-Commission wished to adopt a resolution on the situation of indigenous peoples in Chile, it need only reiterate some of the resolutions it had adopted during the period of the military dictatorship.

57. Mr. GOMEZ ROBLEDO VERDUZCO said he hoped that Mr. Ibarra would be more objective in his observations on Mexico in the future.

58. Mr. KARTASHKIN said that Mrs. Daes' very impressive report (E/CN/4/Sub.2/2001/21) was distinguished by its exhaustive conclusions and recommendations and the basic guiding principles on policy concerning the lands and territories of indigenous peoples. The annex containing the basic legal documents affecting indigenous peoples and their connection with the land mentioned ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. He wondered why so many countries where indigenous peoples lived had not ratified that Convention and what prevented them from doing so. Answers to that question might further enrich an already valuable report.

59. Mr. EIDE said that he endorsed paragraph 155 of the report of the Working Group on Indigenous Populations on its nineteenth session (E/CN.4/Sub.2/2001/17) and noted with satisfaction that Mrs. Daes had been invited to continue working on the subject and to submit a paper on the contributions of indigenous peoples to the United Nations.

60. He welcomed the invitations extended to Mr. Alfonso Martínez to prepare a working paper on indigenous peoples' relationship to natural resource, energy and mining companies, and to Ms. Motoc to prepare a working paper on the consequences of biotechnology on indigenous peoples. He also welcomed the increasing attention being paid to indigenous groups and populations in Africa, as indicated by recent seminars in Arusha and in Mali, and by the establishment by the African Commission on Human Rights of a working group on indigenous peoples. Such developments indicated that the issue of indigenous peoples was becoming global in scope.

61. Mrs. DAES expressed her gratitude to the members of Sub-Commission and representatives of NGOs for their kind words and support.

62. She was pleased to report that, at meetings of the working group of the Inter-American Commission on Human Rights, held in Washington D.C. in March 2001, the United States had formally declared that it would recognize the internal self-determination of indigenous peoples; and the working group had accepted a proposal made by an indigenous representative from Canada that the working group on a new draft declaration on indigenous rights should use the term "peoples", with an "s".

63. Responding to Mr. Kartashkin's question, she said she believed the reason some countries had not ratified ILO Convention No. 169 was that the process took time because studies had to be done on the effect of ratification on economic, political and social interests. However, the Convention was known and quoted worldwide.

64. Lastly, she said that she had aimed in her report to present certain ideas and solutions to problems that were of vital importance, not only to indigenous peoples, but also to Governments and States themselves. It was important for States to make indigenous peoples equal partners and to give them the opportunity to participate in economic, social and cultural development. It was in the interests of both States and the international community to respect the intellectual and physical work of indigenous peoples, which would ultimately benefit their economies.

65. Mr. TOTSUKA (Japan Fellowship of Reconciliation) said that JFOR had been established to achieve eternal peace and human rights through non-violent means. Stressing that JFOR prioritized human rights education, he drew attention to certain difficulties regarding the World Conference against Racism Web site. While JFOR appreciated the work of the Office of the High Commissioner for Human Rights in developing a site containing vital information on the World Conference, many highly educated people and officials in Japan and many other countries were excluded from practical access to that information because they could not read any official United Nations language. The right to human rights information was guaranteed under instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination and JFOR requested that the High Commissioner should make every effort to solve such language problems.

66. Human rights education involved teaching children and the public about painful episodes of history. Governments had a vital role to play in that process. They should condemn human rights violations and violations of humanitarian law committed during colonial periods, since racism and intolerance had been closely linked to such events in the past. It was therefore regrettable that the Japanese Government had recently approved a new school history textbook that glossed over wartime atrocities and made no mention of the sexual slavery of many Asian women in Japanese former colonies and occupied territory. Despite strenuous objections from North and South Korea and China, the Japanese Government had refused to correct the textbook. It was equally regrettable that, despite harsh criticism, the Japanese Prime Minister had recently insisted on paying tribute to war criminals at the Yasukuni shrine.

67. Mr. PITTS (Minnesota Advocates for Human Rights) said that racism was often overlooked, for example, in vital statistics such as infant mortality rates, which could be an important indirect indicator of racism and racial discrimination. In the United States, African American and Native American communities had the highest infant mortality rates, while white infants had the lowest rates. His organization believed that disproportionate death rates of minority infants was the result of discrimination in the provision of a wide range of services such as medical care, housing, education and employment. The development and promulgation of accepted statistical indicators for such key statistics as infant mortality would be of great use in the monitoring, implementation and eventual elimination of persistent human rights violations such as racism.

68. He welcomed the efforts that had gone into the drafting of the documents adopted at the third Preparatory Committee for the World Conference on Racism. However, they lacked some of the general, overarching principles that were fundamental to combating racial discrimination and relevant human rights standards, a problem that might undermine the documents' validity. The draft text should cite the principal human rights instruments and standards relating to racism and the relevant provisions of the United Nations Charter. The language of the international covenants, prohibiting discrimination on the basis of race, ethnic origin, birth or other status, made it clear that oppressive social regimes such as the caste system were appropriate subjects for the World Conference. Both on the formal legal level, for States that had yet to enact legislation, and in terms of protections on the ground, the caste issue remained one of the most important human rights issues in the world today.

69. Secondly, the World Conference should make a strong statement acknowledging racial non-discrimination as jus cogens, i.e. a peremptory norm of international law that was not subject to derogation by any State. Third, it should adopt the very broad definition of racial discrimination contained in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination in order to make it clear that all forms of racial discrimination were recognized and should be prohibited. It should also reiterate the acceptability under international law of special measures or affirmative action to correct the ongoing legacies of past discrimination.

70. Lastly, he said it was imperative that the final text should include effective follow-up mechanisms. The work of standard-setting had largely been completed and the work of implementation must now be pursued with greater vigour. While overt racial discrimination was becoming less acceptable in the international community, certain forms of it persisted and new types of more covert racism were emerging.

71. Ms. BIONDI (International Confederation of Free Trade Unions) said there was a frightening level of racism and racial discrimination in the workplace and the labour market. Although often perceived as static and conservative bodies, trade unions frequently took the lead in raising awareness of the problem and addressing the issues through innovative strategies, as part of their struggle for freedom and social justice for all. Activities included special campaigns and training programmes for shop stewards and the membership at large, structural reform to encourage the participation of diverse groups and the defence of victims of racism in the workplace and in the labour market. Above all, trade unions were urging employers to adopt equal opportunities policies in order to combat racial discrimination and negotiating practical measures in collective agreements aimed at ensuring equal opportunities for migrants, workers of colour and indigenous and ethnic minorities.

72. Trade unions also worked with Governments and employers for the development of bias-free national standards of assessment for various professions and occupations. They lobbied for proactive labour legislation on equity and pay, for the burden of proof to be placed on employers in the case of companies accused of discrimination and for the establishment of specific career development programmes for workers of colour, indigenous people and ethnic minorities, in order to prepare them for promotion opportunities at all levels. ICFTU and its affiliates called on Governments to implement the key provisions of the International

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families without delay, whether or not they had ratified it. Many workers in developed and developing countries were denied the right to form and join trade unions and were often forced to live on the margins of society.

73. Lastly, she said that the document adopted by the World Conference should contain a clear reference to the importance of observing the core labour standards enshrined in the ILO Declaration on Fundamental Principles and Rights at Work, as an effective starting point for the elimination of all forms of racial discrimination and xenophobia. The document must constitute a platform for future avenues of work for the whole United Nations system.

74. Mr. AHSAN (World Federation of Democratic Youth) said that, as the largest ethnic and linguistic minority in Pakistan, the Mohajirs of Sindh province firmly believed in the principle of unity in diversity and were conscious of their responsibilities towards the national interests of the State. Yet they themselves were being subjected to discrimination and isolation in the urban centres of Sindh. The dominant Punjabi group was bent on denying the Mohajirs their right to preserve and protect their specific identity and character. A healthy democracy should carry minorities along with it, not through compulsion but through persuasion. But the Punjabi ethnic majority continued to display the same arrogance and hegemonic mentality that had split Pakistan in 1971. They had not learnt anything from that event. Census figures were made to show the Mohajir population at less than half its actual number, for example, and electoral constituencies were manipulated in order to deprive Mohajirs of their due representation in regional and national assemblies. One Mohajir political leader had recently been arrested. He requested the Sub-Commission to ensure that the human rights of the Mohajir ethnic group were fully protected and preserved by the Government of Pakistan.

75. Mr. GRAVES (Interfaith International) said the Sub-Commission should consider the issue of the sacralization of the State, i.e., the process of making the State into a semi-sacred entity. It was not a recent phenomenon, but it persisted even in modern, proudly secular Western countries that tended to integrate foreigners in such a way that the newcomers occupied a lowly, almost marginalized, position until they had adopted the prevailing values. Far right groups often took advantage of latent sacralization and accused newcomers of trying to change the national ethos or being a threat to national traditions.

76. The Sacralization of the State had also been practised in the colonial period and colonized people had been obliged, often by violent methods, to conform to the overriding cultural domination of the colonizers. The victims of colonization were demanding reparations not merely because they had been defeated by the colonial powers, but because they had been forced to submit to their philosophy.

77. The problem also occurred in some countries in the Asian subcontinent. Pakistan, for example, refused to recognize local cultural differences and the sacralization process could also be observed in India, which claimed to be an enlightened secular democratic state. The Sikh

community alleged that State-supported academics were attempting to prove that the Sikh religion was really a Hindu religion, a position the Sikhs strongly contested. The international community should be aware of the dangers menacing Sikhism and some other religions in India, including the traditional Buddhist culture in Assam, and indigenous traditions such as those of the Chittagong Hill people.

78. Certain States seemed reluctant to deal with the issue at the World Conference against Racism; they claimed it was over and done with. But in order to protect religious and ethnic minorities whose lives were made difficult today by a sacralized State, it was important to admit that some Western powers had been doing the same since the sixteenth century.

The meeting rose at 9 p.m.